



# Hospital of Saint Raphael

A member of the Saint Raphael Healthcare System

1450 Chapel Street  
New Haven, Connecticut 06511  
(203) 789-3000

RECEIVED

2004 MAY -5 PM 12:39

CONNECTICUT OFFICE OF  
HEALTH CARE ACCESS

May 4, 2004

Cristine Vogel  
Commissioner  
Office of Health Care Access  
State of Connecticut  
410 Capital Avenue  
3<sup>rd</sup> Floor  
Hartford, Connecticut 06134-0308

Re: Hospital of Saint Raphael  
Letter of Intent  
Upgrade & Expansion of the McGivney Center for  
Cancer Care

Dear Commissioner Vogel:

Attached is a completed Letter of Intent (OHCA Form 2030) describing the Hospital of Saint Raphael's proposed project to upgrade and expand the Hospital's McGivney Center for Cancer Center through the replacement of 2 linear accelerators at the Hospital, and expansion of radiation therapy services into the community through the placement of a new linear accelerator in a new facility to be developed in Hamden.

We look forward to working with you and the Staff of the Office of Health Care Access on this necessary and important project. If you or your staff have any questions regarding this proposal, please contact me at (203) 789-5961.

Sincerely yours,

Jeffrey B. Hughes  
Director, Planning & Business Development



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**State of Connecticut**  
**Office of Health Care Access**  
**Letter of Intent/Waiver Form**  
**Form 2030**

All Applicants must complete a Letter of Intent (LOI) form prior to submitting a Certificate of Need application, pursuant to Sections 19a-638 and 19a-639 of the Connecticut General Statutes and Section 19a-643-79 of OHCA's Regulations. Please submit this form to the Commissioner of the Office of Health Care Access, 410 Capitol Avenue, MS# 13HCA, P.O. Box 340308, Hartford, Connecticut 06134-0308.

**SECTION I. APPLICANT INFORMATION**

If there are more than two Applicants, please attach a separate sheet of paper and provide additional information in the format below.

	Applicant One	Applicant Two
Full legal name	Hospital of Saint Raphael	N/A
Doing Business As	Hospital of Saint Raphael	
Name of Parent Corporation	Saint Raphael Healthcare System, Inc.	
Mailing Address, if Post Office Box, include a street mailing address for Certified Mail	1450 Chapel Street New Haven, CT 06511	
Applicant type (e.g., profit/non-profit)	Non-profit	
Contact person, including title or position	Jeffrey B. Hughes Director, Planning & Business Development	
Contact person's street mailing address	1450 Chapel Street New Haven, CT 06511	
Contact person's phone #, fax # and e-mail address	(203) 789-5961 – Phone (203) 789-3653 – Fax <a href="mailto:jhughes@srhs.org">jhughes@srhs.org</a>	

## SECTION II. GENERAL APPLICATION INFORMATION

a. Proposal/Project Title:

**Upgrade and Expansion of the McGivney Center for Cancer Care**

b. Type of Proposal, please check all that apply:

☒ Change in Facility (F), Service (S) or Function (Fnc) pursuant to Section 19a-638, C.G.S.:

☐ New (F, S, Fnc)

☐ Replacement

☐ Additional (F, S, Fnc)

☒ Expansion (F, S, Fnc)

☐ Relocation

☐ Service Termination

☐ Bed Addition

☐ Bed Reduction

☐ Change in Ownership/Control

☒ Capital Expenditure/Cost, pursuant to Section 19a-639, C.G.S.:

☒ Project expenditure/cost cost greater than \$ 1,000,000

☒ Equipment Acquisition greater than \$ 400,000

☒ New

☒ Replacement

☐ Major Medical

☐ Imaging

☒ Linear Accelerator

☐ Change in ownership or control, pursuant to Section 19a-639 C.G.S., resulting in a capital expenditure over \$1,000,000

c. Location of proposal (Town including street address):

**Hospital of Saint Raphael  
1450 Chapel Street  
New Haven, Connecticut 06511**

**and**

**2080 Whitney Avenue  
Hamden, Connecticut 06518**

- d. List all the municipalities this project is intended to serve:

**The purpose of this project is to upgrade and replace two (of three) linear accelerators in the Hospital of Saint Raphael's Father Michael J, McGivney Center for Cancer Care, and to acquire an additional linear accelerator to be located in a new satellite facility in Hamden.**

**This project will serve cancer patients in need of radiation therapy treatment. Generally, these patients reside in the 22 cities and towns of South Central Connecticut, however, because the McGivney Center for Cancer Care is considered a regional cancer facility, some of these patients reside in towns outside of the Hospital's traditional service area.**

**Please see Attachment 1 for a listing of the 22 cities and towns which are generally defined as the Hospital of Saint Raphael's service area.**

- e. Estimated starting date for the project:

**Upgrading of equipment is expected to begin in the Summer of 2004, and extend through fiscal year 2005. Construction of the Hamden radiation therapy satellite is expected to begin by Fall, 2004.**

- f. Type of project: 13 (Fill in the appropriate number(s) from page 7 of this form)

**Number of Beds (to be completed if changes are proposed)**

Type	Existing Staffed	Existing Licensed	Proposed Increase (Decrease)	Proposed Total Licensed

**No changes in beds will occur as a result of this project.**

**SECTION III. ESTIMATED CAPITAL EXPENDITURE INFORMATION**

- a. Estimated Total Capital Expenditure: \$ 10,959,648

b. Please provide the following breakdown as appropriate:

Construction/Renovations	\$ 3,210,900
Medical Equipment (Purchase)	\$ 7,748,748
Imaging Equipment (Purchase)	
Non-Medical Equipment (Purchase)	
Sales Tax	
Delivery & Installation	
<b>Total Capital Expenditure</b>	<b>\$ 10,959,648</b>
Fair Market Value of Leased Equipment	
<b>Total Capital Cost</b>	<b>\$ 10,959,648</b>

**Major Medical and/or Imaging equipment acquisition:**

Equipment Type	Name	Model	Number of Units	Cost per unit
<b>Linear Accelerator with On-Board Imaging</b>	<b>Varian</b>	<b>Clinac 21 EX</b>	<b>2</b>	<b>\$2,209,725</b>
<b>Triology with On-Board Imaging</b>	<b>Varian</b>		<b>1</b>	<b>\$3,000,000</b>
<b>Dosimetrist Planning Workstation</b>	<b>Computerized Medical Equipment</b>		<b>1</b>	<b>\$100,000</b>

Note: Provide a copy of the contract with the vendor for major medical/imaging equipment.

**A copy of price quotes may be found in Attachment 4.**

c. Type of financing or funding source (more than one can be checked):

- ☒ Applicant's Equity
 ☒ Lease Financing
 ☐ Conventional Loan  
☒ Charitable Contributions
 ☐ CHEFA Financing
 ☐ Grant Funding  
☐ Funded Depreciation
 ☐ Other (specify): \_\_\_\_\_

**SECTION IV. PROJECT DESCRIPTION**

Please attach a separate 8.5" X 11" sheet(s) of paper and provide no more than a 2 page description of the proposed project, highlighting all the important aspects of the proposed project. Please be sure to address the following (if applicable):

**Please see Attachment 2 for a description of this project.**

- Currently what types of services are being provided? If applicable, provide a copy of each Department of Public Health license held by the Petitioner.

**Please see Attachment 3 for a copy of the license for the Hospital of Saint Raphael issued by the Department of Public Health.**

- What types of services are being proposed and what DPH licensure categories will be sought, if applicable?

**The project consists of upgrading and replacing linear accelerator and stereotactic radiosurgery equipment at the Father Michael J. McGivney Center for Cancer Care at the Hospital of Saint Raphael, and the opening of a new outpatient radiation therapy (linear accelerator) facility in Hamden. It is anticipated that the Hamden outpatient radiation therapy facility will operate as an outpatient service of the Hospital of Saint Raphael.**

3. Who is the current population served and who is the target population to be served?

**The target population is area residents with cancer in need of radiation therapy treatment.**

4. Identify any unmet need and how this project will fulfill that need.

**This project will provide local access to necessary medical services for people with cancer. At the present time, the 3 linear accelerators at the McGivney Center for Cancer Care are operating at full capacity. Routinely, patients requiring radiation therapy are placed on waiting lists – resulting in delays in the start of treatment for these life-threatening diseases.**

5. Are there any similar existing service providers in the proposed geographic area?

**Similar cancer treatment services are provided by Yale New Haven Hospital (New Haven), and Midstate Medical Center (Meriden).**

6. What is the effect of this project on the health care delivery system in the State of Connecticut?

**We anticipate that this project will not have any effect on existing area health care providers.**

7. Who will be responsible for providing the service?

**The Hospital of Saint Raphael will be providing this service. Medical supervision will be provided by Board Certified Radiation Oncologists.**

8. Who are the payers of this service?

**The payors of this service will primarily be Government (Medicare, Medicaid) and private/commercial medical insurance companies.**

**If requesting a Waiver of a Certificate of Need, please complete Section V.**

**SECTION V. WAIVER OF CON FOR REPLACEMENT EQUIPMENT**

I may be eligible for a waiver from the Certificate of Need process because of the following:  
(Please check all that apply)

- ☐ This request is for Replacement Equipment.
  - ☐ The original equipment was authorized by the Commission/OHCA in Docket Number: \_\_\_\_\_.
  - ☐ The cost of the equipment is not to exceed \$2,000,000.
  - ☐ The cost of the replacement equipment does not exceed the original cost increased by 10% per year.

Please complete the attached affidavit for Section V only.

**AFFIDAVIT**

Applicant: The Hospital of Saint Raphael

Project Title: Upgrade and Expansion of the McGivney Center for Cancer Care

I, David W. Benfer, President and CEO of The Hospital of Saint Raphael being duly sworn, depose and state that the information provided in this CON Letter of Intent/Waiver Form (2030) is true and accurate to the best of my knowledge, and that The Hospital of Saint Raphael complies with the appropriate and applicable criteria as set forth in the Sections 19a-630, 19a-637, 19a-638, 19a-639, 19a-486 and/or 4-181 of the Connecticut General Statutes.

David W. Benfer  
Signature

30 April 2004  
Date

Subscribed and sworn to before me on April 30, 2004

Maria A. Marquez  
Notary Public/Commissioner of Superior Court  
MARIA A. MARQUEZ  
NOTARY PUBLIC

My commission expires: My Commission Expires Dec. 31, 2006

## Project Type Listing

Please indicate the number or numbers of types of projects that apply to your request on the line provided on the Letter of Intent Form (Section II, page 2).

### Inpatient

1. Cardiac Services
2. Hospice
3. Maternity
4. Med/ Surg.
5. Pediatrics
6. Rehabilitation Services
7. Transplantation Programs
8. Trauma Centers
9. Behavioral Health (Psychiatric and Substance Abuse Services)
10. Other Inpatient

### Outpatient

11. Ambulatory Surgery Center
12. Birthing Centers
13. Oncology Services
14. Outpatient Rehabilitation Services
15. Paramedics Services
16. Primary Care Clinics
17. Urgent Care Units
18. Behavioral Health (Psychiatric and Substance Amuse Services)
19. MRI
20. CT Scanner
21. PET Scanner
22. Other Imaging Services
23. Lithotripsy
24. Mobile Services
25. Other Outpatient
26. Central Services Facility

### Non-Clinical

27. Facility Development
28. Non-Medical Equipment
29. Land and Building Acquisitions
30. Organizational Structure (Mergers, Acquisitions, Affiliations, and Changes in Ownership)
31. Renovations
32. Other Non-Clinical

**Attachment 1**

**Listing of Cities and Towns that Comprise the Service Area of  
The Hospital of Saint Raphael**

**Attachment 1**

**Hospital of Saint Raphael  
Service Area**

Ansonia  
Bethany  
Branford  
Cheshire  
Clinton  
Derby  
East Haven  
Guilford  
Hamden  
Madison  
Meriden  
Milford  
New Haven  
North  
Branford  
North Haven  
Orange  
Oxford  
Seymour  
Shelton  
Wallingford  
West Haven  
Woodbridge

**Attachment 2**  
**Project Description**

## **Project Description**

**The purpose of this project is to upgrade and replace equipment in the Father Michael J. McGivney Center for Cancer Care ("McGivney Center for Cancer Care" or "McGivney Center") at the Hospital of Saint Raphael, and to expand cancer treatment services into the community through the construction of a new satellite radiation therapy center in Hamden, Connecticut.**

**Since the Hospital of Saint Raphael opened the first radiation treatment center in the State of Connecticut in 1957, the Hospital has carried on a major commitment to cancer care. With more than 50 years of experience in cancer care and treatment, the Hospital of Saint Raphael has developed its cancer services to become a recognized regional leader as a multidisciplinary cancer care and treatment center serving the residents of south central Connecticut.**

**The McGivney Center for Cancer Care was created in February, 1994 to provide a new dimension in care to people facing cancer. The McGivney Center is a 29,000 square foot facility that offers the technologically advanced equipment for the treatment of cancer including high-energy linear accelerators, intensity modulated radiation therapy (IMRT), high dose and low dose brachytherapy, stereotactic radiosurgery, and three-dimensional treatment planning and conformal radiation therapy. In addition to radiation therapy, the McGivney Center has sophisticated chemotherapy capabilities and provides support services such as counseling, nutritional guidance, and financial help. The McGivney Center for Cancer Care program is a natural outgrowth of the Hospital's Mission of treating all patients with dignity and respect.**

**Cancer services have long been considered one of the key clinical strengths of the Hospital of Saint Raphael. In FY'03 cancer discharges were over 600 and outpatient encounters for radiation therapy and nuclear medicine numbered over 39,000. The Hospital of Saint Raphael leads the State in total volume of lung and breast cancer patients and is second in statewide volume for head and neck cancer patients. In addition, the Hospital is a regional leader in genitourinary, breast, brain and lymphatic cancer cases. The radiation therapy volume at the Hospital has grown to the point that the current demand exceeds our ability to provide necessary radiation therapy treatments. Routinely, patients requiring radiation therapy are placed on waiting lists – resulting in delays in the start of treatment for these life-threatening diseases.**

**The McGivney Center for Cancer Care is equipped with 3 linear accelerators which were installed when the Cancer Center opened 10 years ago. The purpose of this project is to upgrade and replace 2 of the 3 linear accelerators at the McGivney Center, and to construct a new radiation therapy satellite facility in Hamden, directly adjacent to the Hospital's Ambulatory Surgery Center. Within 12 to 24 months, the Hospital intends to submit another Certificate of Need application to replace the remaining linear accelerator at the McGivney Center.**

**While the Hospital of Saint Raphael is a statewide leader in the delivery of cancer care, the rapid pace of change in cancer treatment, technology, and care delivery, coupled with the aging of the Hospital's linear accelerator equipment, have merged such that the Hospital of Saint Raphael is at a critical juncture. A significant investment in the McGivney Cancer Center is necessary to ensure the continued provision of high quality, state-of-the-art cancer care services for our patients and the residents of south central Connecticut.**

**Attachment 3**

**Hospital of Saint Raphael License**

# STATE OF CONNECTICUT

## Department of Public Health

Page 15 of 29  
5/4/04

### LICENSE

License No. 0056

### General Hospital

In accordance with the provisions of the General Statutes of Connecticut Section 19a-493:

Hospital of Saint Raphael of New Haven, CT, d/b/a Hospital of Saint Raphael is hereby licensed to maintain and operate a General Hospital.

Hospital of Saint Raphael is located at 1450 Chapel Street, New Haven, CT 06511

The maximum number of beds shall not exceed at any time:

22 Bassinets

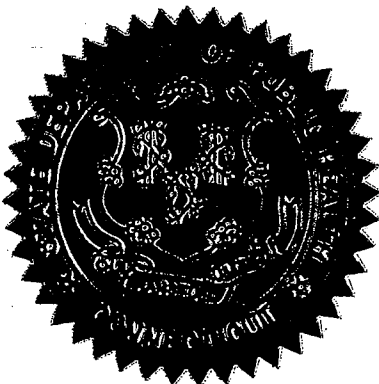
511 General Hospital beds

This license expires September 30, 2005 and may be revoked for cause at any time.

Dated at Hartford, Connecticut, October 1, 2003. RENEWAL.

#### Satellites

Adolescent Day Hospital, 301 Orchard Street, New Haven, CT  
Psychiatric Day Hospital, 1294 Chapel Street, New Haven, CT  
Troup School Base Health Center, 259 Edgewood Avenue, New Haven, CT  
Children's Psychiatric Day Hospital, 1348 Chapel Street, New Haven, CT  
Elder Care Clinic, Atwater Clinic, 26 Atwater Street, New Haven, CT  
Project Mother Care (Mobile), 1450 Chapel Street, New Haven, CT  
Dwight School Based Health Center, 130 Edgewood Avenue, New Haven, CT  
Dental Mobile Van "Miles 4 Smiles", 1450 Chapel Street, New Haven, CT  
Elder Care Clinic/Tower One, Tower Lane, New Haven, CT  
Elder Care Clinic/Casa Otonal, 140 Sylvan Avenue, New Haven, CT  
Elder Care Clinic/Edith Johnson Tower, 114 Bristol Street, New Haven, CT  
Elder Care Clinic/Crawford Manor, 90 Park Street, New Haven, CT  
Elder Care Clinic/Ribicoff Cottages, 200 Brookside Avenue, New Haven, CT  
Take Heart Cardiac Rehab., 175 Sherman Avenue, New Haven, CT  
Take Heart Cardiac Rehab., 1591 Boston Post Road, Guilford, CT  
Physical, Occupational & Speech Therapies, 175 Sherman Avenue, New Haven, CT  
Physical, Occupational & Speech Therapies, 22 Summit Place, Branford, CT  
Evening Chemical Dependency Program, 1294 Chapel Street, New Haven, CT  
Saint Raphael's Occupational Health Plus And Outpatient Rehabilitative Services, 2080 Whitney Avenue-Suite 150, Hamden, CT  
Mcquency Towers/Hospital of Saint Raphael Eldercare Clinic, 318/358 Orange Street, Apt.#416, New Haven, CT



A handwritten signature in black ink, appearing to read "Norma Gyle".

Norma Gyle, R.N., Ph.D., Acting  
Commissioner

**Attachment 4**  
**Vendor Price Quotes**



# Quotation

JSM20040318-001

Page 17 of 29  
5/4/04

Page: 1

**Quotation For:**

**Charles Gignac MS**  
**Hospital of St. Raphael**  
**Cancer Care Center**  
**1450 Chapel Street**  
**New Haven, CT 06511-4405**  
**(203) 789 - 3131 FAX: (203) 789 - 3133**

**Please address inquiries and replies to:**

**Janet S. Marshall**  
**Varian Medical Systems**  
**1700 Gatehouse Court**  
**Bel Air, MD 21014**  
**(410) 638 - 6800 FAX: (410) 638 - 6811**

<b>Your Reference:</b>	<b>Quotation Firm Until: April 17, 2004</b>
<b>FOB Point:</b>	<b>Shipping Allocation:</b>
<b>Payment Terms:</b>	<b>Terms and Conditions for Sale Varian RAD 1652 Attached.</b>

**Clinac 21EX Linear Accelerator**  
**Technology Obsolescence Protection Program**  
**Options for your Consideration**

<b>Hospital of St. Raphael</b> <b>Accepted by:</b>  <b>Signature:</b> _____  <b>Name:</b> _____  <b>Title:</b> _____  <b>Date:</b> _____  For this purchase, we designate <b>PREMIER</b> as our Institution's Primary Group Purchasing Organization Affiliation. Any change will be Indicated below:  <input type="checkbox"/> AmeriNet <input type="checkbox"/> Broadlane <input type="checkbox"/> Consorta <input type="checkbox"/> Direct Med <input type="checkbox"/> HPO <input type="checkbox"/> Magnet <input type="checkbox"/> MedAssets <input type="checkbox"/> Novation <input type="checkbox"/> Premier <input type="checkbox"/> Salick <input type="checkbox"/> Sutter <input type="checkbox"/> UHS <input type="checkbox"/> US Cancer <input type="checkbox"/> USO <input type="checkbox"/> VA DPSC <input type="checkbox"/> VA Gov <input type="checkbox"/> None	<b>Varian Medical Systems</b>  <b>Submitted by:</b>  _____ <b>(Signature)</b>  <b>Name: Janet S. Marshall</b>  <b>Title: District Sales Manager</b>  <b>Date: March 18, 2004</b>
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*This document is confidential and intended solely for the information and benefit of the immediate recipient and Varian*



# Quotation

JSM20040318-001

Page: 2

Hospital of St. Raphael, New Haven, CT

Item	Qty	Product Description	Standard Price	Offer Price
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## Section 1 Clinac 21EX Linear Accelerator

### Clinac 21EX

1.01	1	CLINAC 21EX - 6/16 MV Clinac 21EX - 6/16MV	1,816,319.00	1,529,725.00
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Two (2) Photon Energies as defined by BJR 17

100 to 600 MU/min Photon Dose Rate in 6 Steps

100 to 1000 MU/min Electron Dose Rate in 7 Steps

5 Electron Energies

Upper Independent Collimators: Upper collimators move independently for a total travel range of 30cm each

Exact Couch with Indexed Immobilization includes: Universal Accessory Clamps (pair), Removable Accessory Rails (pair), Patient Straps, Two (2) Universal Pendants

Accessory System Type III includes: Accessory Mount, Bi-direction Wedge Set (30 cm), Mechanical Front Pointer (holder and 4 rods), Electron Applicators includes one of each: 6x6, 10x10, 15x15, 20x20, 25x25cm, Electron Beam Shaping Kit (Per RAD 2045), Drilled Star trays (Quantity 25 - .635 cm thickness)

Dual Independent Collimators: Upper and Lower Collimators move independently.

High Energy Special Procedures includes:

STATIC Procedures:

1. Total Body Irradiation Mode: TBI option provides large field x-ray treatment capability at extended distances consistent with the requirement of accepted clinical techniques. The TBI option allows delivery of an x-ray dose of up to 9000 MU at isocenter in a single treatment.
2. Total Body Electron Mode: TBE provides large field electron treatment capability at extended distances. The TBE option allows delivery of an electron dose of up to 9000 MU at isocenter in a single treatment.
3. High Dose Total Skin Electron Mode: HDTSE provides high dose rates for the purpose of total body skin irradiation at a dose rate of 888 MU/Minute at 1.6 meters or 2500 MU/Minute at isocenter.

DYNAMIC Procedure:

Dynamic Arc Electron Mode: The gantry rotates to deliver any of the standard electron energies with a preset gantry rotation of up to 360 degrees.

Dynamic Arc Photon Mode: The Clinac is capable of delivering 0.50 to 16MU per degree over a preset gantry rotation of up to 360 degrees

Advanced Dynamic Procedures includes: Arc Dynamic MLC Mode, Dose Dynamic MLC Mode

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# Quotation

JSM20040318-001

Page: 3

Hospital of St. Raphael, New Haven, CT

Item	Qty	Product Description	Standard Price	Offer Price
		Enhanced Dynamic Wedge will deliver wedged dose distributions by varying the independent collimators during the photon treatment. Seven wedge angles (10, 15, 20, 25, 30, 45, and 60 degrees), asymmetric field sizes, and up to 30 cm field width is provided. New PHYSICS commission procedure is EASIER and an Implementation Guide is included		
		Extended Head Rotation: Extending Collimator rotation from +/- 95 degrees to +/- 165 degrees is accomplished through hardware and software changes		
		Auto Field Sequencing: Provides the capability for the Clinac to automatically set up all mechanical axes and beam parameters for each treatment field when a compatible record-and-verify system, such as VARIIS, sends treatment parameters to a Clinac. Requires Compliant Record-and-Verify Version and Extended Clinac Interface (EXCI)		
		Extended Clinac Interface (EXCI): The Extended Clinac Interface, provides all Clinac parameters to an independent computer workstation, such as VARIIS, or other Information Systems workstations. It also provides Auto Field Sequencing Data and other IMRT related information.		
		Remote Access		
		Gold Standard Beam Matching provides Fine Beam Matching for Photons and Electrons between two EX Series Clinacs.		
		EX Machine Factory Data Set including beam scans, numerical tables, drawings of physical wedges, and accelerator head drawings with dimensions relevant to a treatment planning system. Data is presented in both Wellhofer Scan format and Microsoft Excel spreadsheets.		
		Three Year Warranty on Klystron, Electron Gun, Standing Wave Guide, Bend Magnet, and Solenoid Energy Switch, provided Varian is sole service provider.		
		Gantry Counterweight		
		Turntable and Universal Baseframe with Fixed Floor - Isocenter @51 in.		
		Standard Spare Parts		
		Product Manuals		
		Installation		
		One (1) year full warranty		
		<b>Clinac Bill of Materials</b>		

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# Quotation

JSM20040318-001

Page: 4

Hospital of St. Raphael, New Haven, CT

Item	Qty	Product Description	Standard Price	Offer Price
1.02	1	<b>Electron Group 3</b> Group 3: 6, 9, 12, 16, and 20 MeV.		Included
1.03	1	<b>Scales: IEC</b>		Included
1.04	1	<b>Applicator Size: 6x6</b>		Included
1.05	1	<b>Accessory System: 30cm</b>		Included
1.06	1	<b>Special Procedures Mode: 6E</b>		Included
1.07	1	<b>Target-to-Tray Distance: 65.4cm</b>		Included
1.08	1	<b>Photon Beam Energy Display: BJR 17</b>		Included
<b>Argus Products Bill of Materials</b>				
1.09	1	<b>Argus High Energy Linac QC Package</b> Argus HE Linac QC Package includes:  Argus LINAC Base System:  Argus LINAC Base System is the core system for an Argus quality control information management system. It includes a software license for the first linear accelerator, one instrument interface for a specific (user identified) test and measurement device, a network license for up to 5 concurrent users.  Features: Tools for automation of data acquisition, a centralized quality control data repository, data analysis, tools for tracking, trending, graphing and reporting of QC data. Administrative tools for scheduling, oversight and communications are also included.  On-Site Installation:  Features: On-site installation of the QCIM software at the licensed facility.  8 hours remote training. ASRT CE credits for Therapists.  1 year of Help Desk Support.  Notes: Licenses for additional machines, instrument interfaces, IMRT capability or concurrent users are to be selected from the listing below.		Included
<b>Clinac Bill of Materials</b>				
1.10	1	<b>INCLUDED APPLICATIONS TRAINING: Clinac</b> INCLUDED TRAINING: Applications Training: Clinac  Every Varian product includes the recommended applications training requirements to promote safe clinical operation of purchased products and/or selected upgrades (also known as entitlement training).		Included

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# Quotation

JSM20040318-001

Page: 5

Hospital of St. Raphael, New Haven, CT

Item	Qty	Product Description	Standard Price	Offer Price
		Applications Training: Clinac for 1-8 Users provides customer site training for the Clinac.		
1.11	2	<b>INCLUDED EDUCATION: Clinac Operations or Clinac Support</b> The choice of one of the following Education Courses is included with the purchase of a Clinac.  This includes Tuition and Materials for one person.  The offer is valid for one year after installation.  EDUCATION: Clinac Operations:  Course Description: Clinac Operations is a course designed for those personnel responsible for the routine operation and/or supervision of the daily clinical use of the clinac. It is directed primarily towards Radiation Therapists and Radiation Oncologists. It is recommended that students attend the Clinac Operations course shortly before clinical use and patients treatments commence.  Course Scope: Provides a general overview of the machine concepts, familiarity with controls and features and an understanding of the interlock matrix. The emphasis throughout the course is to present the subject matter from a clinical use perspective, however the primary emphasis is not on the day-to-day console programming, but rather an overall understanding of the Clinac function and operation. Extensive hands-on laboratory exercises are included.  Prerequisites: None  Length of Course: 5 days  OR  EDUCATION: Clinac Support:  Course Description: Clinac Support is a course designed for those personnel responsible for the equipment maintenance. It is directed primarily towards Physicists and Biomedical Engineers, however it may be appropriate for Dosimetrists and/or Radiation Therapists who have a background in electronics.  Course Scope: Acquaints and familiarizes the student with the general accelerator function, operation and routine support. Provides a basic understanding of the machine concepts and day-to-day maintenance while also providing a working vocabulary for communication with service personnel.  Prerequisites:		Included

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# Quotation

JSM20040318-001

Page: 6

Hospital of St. Raphael, New Haven, CT

Item	Qty	Product Description	Standard Price	Offer Price
		None		
		Length of Course: 5 days		
		<b>Clinac Options:</b>		
1.12	1	<b>In-Room 20" LCD Monitor, Wall Mount, and Cable Kit</b> In Room 20" LCD Monitor, Wall Mount, and Cable Kit	2,640.00	Included
		HARDWARE INCLUDED: 1. 20" LCD Display Monitor for Treatment Room 2. Wall Mount; and 3. In-Room Monitor Cable Kit including 100 foot (30.48 meter video cable and video switch.)		
		NOTE: 1. One required for each Treatment module and Linac.		
1.13	1	<b>In-Room Monitor Cable Kit</b> (Needed when monitor purchased Locally) In-Room Monitor Cable Kit (Needed when monitor purchased locally)	7,987.00	Included
		100 foot (30.48 meter) video cable and video switch.		
		<b>Millennium Multileaf Collimator:</b>		
1.14	1	<b>Millennium Multileaf Collimator, 120 leaf</b> 120 Leaf Millennium Multileaf Collimator System includes: Controller computer MLC Workstation computer SHAPER Workstation Digitizer (Requires 22cmx17cm Lightbox) Millennium MLC 3rd Party RV Interface (Note: The 3rd Party RV Vendor is responsible for the installation and configuration of the Interface.) Multileaf Collimator Accessory System includes: - Accessory Mount (65.4cm Source to Tray Distance Only) - Compensator Mount & ONE (1) Upper compensator tray - TEN (10) Lower Compensator trays - Upper & Lower Wedge Sets (30cm) - Port Film Graticule is an Option OTHER: MLC Standard Spare Parts Kit TWO (2) sets of Product Manuals Installation ONE (1) year full warranty ONE (1) day Applications Training for up to 8 users	610,650.00	Included
		<b>Collimator Accessory Options:</b>		

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# Quotation

JSM20040318-001

Page: 7

Hospital of St. Raphael, New Haven, CT

Item	Qty	Product Description	Standard Price	Offer Price
1.15	1	Upper Port Film Graticule for MLC	1,810.00	Included
		<i>Treatment Room Options:</i>		
1.16	1	Diacor Red Diode Lasers (Set of 4) Diacor Red Diode Lasers (Set of 4):  3 Red Diode Cross Lasers 1 Red Diode Sagittal Laser	10,350.00	Included
		<i>Clinac Options:</i>		
1.17	1	Exact Couch Arm Support	1,040.00	Included
1.18	1	Exact Couch Hand Grips (pair)	2,527.00	Included
1.19	1	Spare C-Series Universal Pendant	3,423.00	Included
		<i>PortalVision</i>		
1.20	1	Laser Backpointer for PortalVision Arm	3,652.00	Included
		<i>Treatment Room Options:</i>		
1.21	1	Transtector Power Conditioner, High Energy Transtector Power Conditioner, High Energy  One Unit System with TVSS Inside	28,242.00	Included
		<i>Maintenance, Installation &amp; Freight</i>		
1.22	1	HE Clinac Installation: 3 Piece Rigging INSTALLATION RESERVES: THESE PRICES ARE FOR GROUND LEVEL ACCESS ONLY. THE SHORING OF FLOORS, WIDENING OF DOORWAYS, AND ANY OTHER NON-STANDARD RIG-IN REQUIREMENTS ARE EXCLUDED AND WILL BE QUOTED SEPARATELY IF REQUIRED.	7,000.00	Included
1.23	1	HE Clinac Installation: Utility Connection	2,000.00	Included
1.24	1	HE Clinac Installation: Baseframe Rigging	1,500.00	Included
1.25	1	HE Clinac Installation: Grouting	1,500.00	Included
1.26	1	HE Clinac Freight & Insurance: Northeast	8,300.00	Included
Section Total \$			2,508,940.00	1,529,725.00

## Section 2 Technology Obsolescence Protection Program

Options for your Consideration

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# Quotation

JSM20040318-001

Page: 8

Hospital of St. Raphael, New Haven, CT

Item	Qty	Product Description	Standard Price	Offer Price
<b>Future Technology</b>				
2.01	1	<b>Clinac based On-Board Imaging - Field Retrofit</b> Clinac based On-Board Imaging: One upgrade to include Clinac based on-board imaging consistent with Varian's Dynamic Targeting initiative, contingent upon commercial availability and clearance by appropriate regulatory agencies. If Varian is unable to commercialize its technology efforts or achieve appropriate regulatory clearance within two years, the agreement on pricing expires and any funds received from the customer will be returned.  Field upgrade prerequisite: Clinac Serial numbers, as follows: - C-Series CL2100C/D/EX s/n 1352 +, Silhouette configurations - C-Series CL2300C/D/EX s/n 245 +, Silhouette configurations - Exact Couch - System 6.5 for VARiS Record and Verify Systems - Requires 3-Phase incoming power, 480volt, 70amp, 100kVA. **For 3rd Party Record & Verify –requires Integrated Console in lieu of System 6.5 Upgrade.  – Upgrade is a component of Varian's Technology Obsolescence Protection Program.	615,000.00	615,000.00
2.02	1	<b>Integrated Console</b> <b>Technology Obsolescence Protection Program</b> The Integrated Console is required for On Board Imaging compatibility in conjunction with a C-Series Clinac. If and when available, the Integrated Console will require a 3rd party Record and Verify interface as supplied by the 3rd party supplier.  Pre-Requisites: - Non-Varian Record & Verify System  – In conjunction with On Board Imaging Technology Obsolescence Protection Program.	65,000.00	65,000.00
<b>Section Total \$</b>			<b>680,000.00</b>	<b>680,000.00</b>

## Section 3 Options for your Consideration

### PortalVision

3.01	1	<b>PortalVision aS500 System</b> <b>Optional Item NOT included in Offer price</b> PortalVision aS500 System Factory Installed  • PortalVision System for connection to VARiS/Vision networks:	293,000.00	227,115.00
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# Quotation

JSM20040318-001

Page: 9

Hospital of St. Raphael, New Haven, CT

Item	Qty	Product Description	Standard Price	Offer Price
		<ul style="list-style-type: none"> <li>* Personal computer with Pentium III Intel processor, image processing and display PC boards, and CD-ROM, and Windows NT operating system</li> <li>* 17" high-resolution monitor and mouse</li> <li>* Image Acquisition H/W I</li> <li>* Image detector unit:</li> <li>* 512 x 384 Amorphous Silicon detector</li> <li>* 400 x 300 mm active viewing area</li> <li>* Amplifier, switching and console electronics</li> <li>* Retractable arm with motorized vertical, longitudinal, and lateral movements to hold and position detector</li> <li>* Image acquisition and processing software, including:</li> <li>* Low/high band pass</li> <li>* Edge enhancements</li> <li>* Linear contrast adjustments</li> <li>* Field edge detection</li> <li>* Image matching</li> <li>* Cine mode</li> <li>* Includes installation and warranty</li> <li>* Includes TWO (2) days Applications Training for up to 8 Users</li> </ul>		
Section Total \$			0.00	0.00
Quotation Total \$			3,188,940.00	2,209,725.00

## Terms & Conditions of Sale

This offer is subject to credit approval and is exclusive of any applicable sales taxes or duties.

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# Quotation

JSM20040318-001

Page:10

Hospital of St. Raphael, New Haven, CT

## Leasing and Finance Options

This package (as described herein and based on the total purchase price) can be financed as follows:

The lease rates quoted below are based on a total purchase of \$2,209,725.\*

5 Year (60 month) Finance Lease with \$1.00 buyout \$46,735 per month\*\*

10 Year (120 month) Finance Lease with \$1.00 buyout \$29,168 per month\*\*

Varian Medical Systems would be pleased to discuss other financing programs that could include:

Automatic Updates and Upgrades to Software and/or Hardware

Complete Service Coverage

Off Balance Sheet Treatment providing increased lines of credit and possible tax advantages

Customized finance structure to meet your exact requirements

\* Subject to final configuration.

\*\* Subject to credit approval.

Please note: All lease pricing is in US Dollars.

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## TERMS AND CONDITIONS OF SALE

RAD 1652 Q 12/01

### Oncology Systems & Industrial Products ("Products")

VARIAN MEDICAL SYSTEMS, INC.  
 ONCOLOGY SYSTEMS & INDUSTRIAL EQUIPMENT  
 3100 Hansen Way, Palo Alto, CA 94304  
 ("Varian")

#### 1. Applicable Terms and Conditions

All Varian Products and services (including Varian-produced hardware and software) are furnished only on the terms and conditions stated herein and on the face of the applicable Varian quotation to the exclusion of any Buyer terms and conditions in any specific order documentation, preprinted or otherwise, except as to identification and quantity of Products. Varian's performance of any contract is expressly conditional on Buyer's agreement to Varian's terms and conditions of sale, and in the absence of such agreement shall be for Buyer's convenience only, shall not create any contractual obligation and shall not be construed as acceptance by Varian of Buyer's terms and conditions printed or stated in its orders. Buyer's acceptance of any Product or service shall be deemed acceptance of Varian's terms and conditions below.

#### 2. Quotations and Prices

Varian's prices, quotations and contracts for Products and services are subject to the following, unless otherwise stated in Varian's quotation or other writing signed by an authorized representative of Varian.

(a) All quotations are firm for and expire sixty (60) days from the date thereof and constitute offers, except that quotations to non-U.S. customers are solicitations for offers to purchase.

(b) Varian's prices exclude and Buyer shall be responsible for all ordinary and necessary charges incidental to the sale incurred by Varian and billed by Varian to Buyer, including but not limited to charges for taxes (including, without limitation, all taxes based on gross receipts, e.g., sales, use, excise, value added, stamp, transaction or similar taxes), customs fees, duties and other related charges. The total price to Buyer shall be adjusted to include costs of transportation, special packing and insurance incurred by Varian in accordance with agreed shipping and risk terms.

(c) Products supplied and installed by Varian will be in accordance with written Specifications provided by Varian to Buyer and referenced in Varian's quotation. Weights and dimensions are approximate only, and minor deviations from Specifications shall not be the basis of any claim against Varian. Varian shall only be responsible for performance figures provided in writing by Varian and referred to in Varian's applicable quotation. Clerical and typographical errors are subject to correction. Occasionally, Varian may substitute remanufactured parts and components that meet the same quality standards as other materials and are covered by the same warranty. Parts for which Varian has provided replacements shall, at Varian's option, become the property of Varian.

(d) All purchase orders and contracts are subject to written acceptance only by Varian's U.S. office. Varian's acceptance of any purchase order and Varian's performance are expressly conditioned upon Buyer's compliance with all applicable codes, regulations and recommendations of competent health or radiation-protection authorities affecting Products, and/or installation and use of the Products, and Varian's approval of Buyer's credit.

(e) Buyer shall disclose the dollar value of any discounts or reductions in price for the Products and services furnished by Varian in Buyer's costs claimed or charges made to Medicare, Medicaid and any other federal, state or local program providing reimbursement to Buyer.

#### 3. Terms of Payment

The price of each Product and related services and the payment schedule and payment terms are set forth in Varian's quotation or contract agreed to in writing and signed by an authorized representative of Varian. Varian may charge for past due balances up to the maximum amount permitted by applicable law. Buyer shall be responsible for and pay any and all taxes levied on or with respect to the Product or services or both after completion of manufacture, or scheduled delivery date. Partial shipments will be billed as made and payments therefor are subject to the above terms. Varian may cancel or delay delivery of Products in the event of an arrearage

in Buyer's account with Varian. Varian shall retain a purchase money security interest in all Products, and the proceeds thereof, until such time as Buyer has made payment in full of all sums due, interest, costs and incidental expenses, payable to Varian in accordance with the terms hereof. All down payments, if any, are nonrefundable and Varian shall retain them as damages for unauthorized termination or cancellation. Buyer shall cooperate fully with Varian to execute such documents and accomplish such filings and/or recordings as Varian may deem necessary to maintain and perfect its interests in the Product furnished to Buyer.

#### 4. Transportation and Risk of Loss

Except as otherwise provided herein, or in accordance with expressly agreed Incoterms 2000, all shipments are FOB Varian's plant with all transportation and insurance at the expense of Buyer, and risk of loss or damage to Products shall pass upon delivery to the transportation company. For Products shipped FOB destination within the United States, risk of loss or damage shall pass to Buyer upon arrival of the transportation company at Buyer's dock. For Products shipped to destinations outside the United States and its possessions, title and risk of loss or damage shall pass from Varian to Buyer when Products arrive at the country of destination, notwithstanding any shipment terms to the contrary. Unless otherwise expressly agreed in writing, transportation to Buyer's site will be in "air ride" vans, and Varian may insure to full value of Products shipped at Buyer's expense or declare full value to the transportation company at time of shipment.

#### 5. Storage

If shipment is delayed due to unavailability of Buyer facilities or any other cause, Buyer hereby requests and authorizes Varian to ship the Product to storage upon completion of its manufacture. Varian will pay storage related charges, including insurance, for storage in the San Francisco area. Buyer shall pay any payment increments for the Product due upon shipment at the time of such shipment to storage. However, shipment to storage shall not complete Varian's shipment, installation, warranty or other obligations to Buyer under this contract. Upon notification by Buyer, Varian or its agent shall remove the stored Products from storage and deliver them to a common carrier, customs broker, packer or forwarding agent for shipment to a place designated by Buyer. When storage is required, the risks and responsibilities of ownership and title shall pass from Varian to Buyer on delivery of Product to the transportation company at Varian's factory. When storage is required, the provisions of this paragraph shall prevail over any inconsistent provisions of these terms and conditions.

#### 6. Performance

Neither party shall be liable for any delay in delivery or other performance hereunder which is due to unforeseen circumstances, or to causes beyond its control, including, without limitation, strike, lockout, riot, war, civil unrest, fire, act of God, or compliance with any governmental law, regulation, or order, including but not limited to U.S. Export Administration Regulations. Provided any such delay is neither material nor indefinite, performance shall be deemed suspended during and extended for such time as it is so delayed, and thereafter the other party shall accept performance hereunder.

#### 7. Completion of Installation

Buyer shall examine fully the Product delivered upon receipt and make all complaints and claims that appear to be justified to the carrier in writing, and shall copy Varian on such writing within three (3) days of its receipt. For a Product for which installation is provided, completion of installation shall occur upon the earlier of completion of Varian's applicable standard test procedures or Buyer's execution of Varian's acceptance form. Notwithstanding the foregoing, use of any Product by Buyer, its agents, employees or licensees, for any purpose after its receipt, without the express written approval of Varian, shall constitute completion of installation of the Product. Prior to completion of installation, Varian may repair or, at its option, replace defective or nonconforming parts after

receipt of notice of defect or nonconformity. After completion of installation, Buyer's remedies shall be solely as provided in the Warranty paragraphs herein. Buyer agrees that, if installation of a Product is delayed by more than 180 days after delivery for any reason for which Varian is not responsible, then installation shall be deemed completed and any portion of the purchase price that is due upon installation or completion of installation or thereafter shall become immediately due and payable. Varian shall no longer be required to provide installation services for the Product pursuant to this agreement. Buyer and Varian agree to negotiate in good faith to enter into a separate agreement for the provision of installation services for the Product at a later date.

#### 8. Cancellations and Assignments

No order accepted by Varian may be terminated, canceled, modified or assigned by Buyer except by prior mutual agreement in writing. Any attempt to do so without Varian's written consent shall be void from the outset. In any such event, with or without Varian's consent, Buyer agrees to pay Varian a charge determined solely by Varian to cover the reasonable costs of processing, order handling, retesting, repackaging, lost profits and other damages as determined in accordance with applicable law and these terms and conditions. Varian may assign or otherwise transfer this Agreement, in whole or in part, to a subsidiary or affiliate, or a purchaser or transferee of substantially all of the assets used by Varian in its business to which this Agreement relates without notice to, or obtaining the consent of, any other Party.

#### 9. Patents and Other Intellectual Property Rights

Varian shall, at its own expense, defend or settle any claim brought against Buyer to the extent based on claims that the design or manufacture of any Product furnished by Varian to Buyer, and which is either in Varian's commercial line of Products or manufactured to specifications set by Varian, constitutes infringement of any patents or other intellectual property rights of the country where Buyer takes delivery of the Product; the foregoing is conditional upon Buyer notifying Varian immediately in writing of the claim, giving Varian sole control of the defense, management and settlement of the claim, and supporting Varian if requested. If the design or manufacture of the Product is held to constitute an infringement and its use is enjoined as a result of any lawsuit or proceeding, Varian shall, at its own expense and sole option, either procure a license to protect Buyer against the claim, modify or replace the Product with a noninfringing product, or accept return of the Product and refund its purchase price, less reasonable depreciation. Varian EXPRESSLY EXCLUDES from liability and Buyer shall hold Varian harmless from: any Buyer expenses of defense and any claims settled by Buyer without Varian's prior written consent; any claims arising from a use or combination of the Product with any other equipment, processes, programming applications, apparatus or materials not furnished by Varian under this contract; or any claims arising out of compliance by Varian with Buyer's designs, specifications or instructions. The foregoing states Varian's entire liability for any claim based upon or related to any alleged infringement of any patent or other intellectual property rights and is subject to the DAMAGES AND LIABILITY provisions herein.

#### 10. Warranty

Warranty terms below that refer to hardware Products ("Hardware Products") shall apply only to Hardware Products, parts or accessories and not to computer software Products. Varian's Software License Agreement, including its warranty provisions, shall, with respect to computer software Products, prevail over any contrary terms and conditions herein.

**Warranty Periods:** Varian warrants each Hardware Product manufactured and sold by Varian to be free from defects in material and workmanship and in substantial compliance with operational features of Varian's published specifications at the time of sale. This warranty shall begin upon Hardware Product completion of

installation and continue for a period of one (1) year from such date, but not to exceed twenty-four (24) months from date of shipment from Varian to Buyer or to storage. In lieu of the foregoing periods, specific components of Hardware Products may have different warranty periods, prorated replacement credits and return policies, as stated on the applicable Varian warranty forms.

**Warranty Remedies:** Buyer's sole and exclusive remedy for any failure of a Product to perform shall be repair or at Varian's option replacement of defective Hardware Products, parts or accessories. If in Varian's sole opinion such repair or replacement is not feasible, or if such remedy fails of its essential purpose, Varian may refund or credit a portion of any sums paid by Buyer for the Hardware Product or service. In-warranty repair or replacement parts are warranted only for the unexpired portion of the original warranty period.

**Exclusions from Coverage:** Any warranty or liability is excluded with respect to malfunction caused in Varian's reasonable opinion by (1) accident, abuse, alteration, misuse or neglect, (2) failure to use Products under normal operating conditions or environment, or within Varian specified ratings, or according to any operating instructions provided by Varian, (3) lack of routine care or maintenance as indicated in any Varian operating or maintenance instructions, (4) failure to use or take any proper precautions under the circumstances, (5) user modification of any Product, or (6) latent defects discovered after expiration of the applicable warranty period.

**Other Supplier Warranties:** Warranties given by other suppliers of equipment, accessories, components or computer software not normally provided by Varian as part of its standard product offerings, (which warranties are expressly made available by the supplier to be passed on to the Buyer) shall be passed on by Varian as designated by the applicable supplier to Buyer, subject to all limitations imposed on Varian by the supplier and shall apply exclusively to the specific equipment, accessories, components or software as designated by the applicable supplier. In no event shall Varian have any liability with respect to such third party equipment, accessories, components or computer software or warranties provided by such other suppliers, nor shall Varian have any liability for failure of such supplier to perform on its warranty. Varian's liability under warranty shall be determined solely by Varian's warranty, including all its exclusions and limitations.

**EXCLUSIONS OF IMPLIED WARRANTIES:** THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF AND EXCLUDES ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE, USE, OR APPLICATION.

**Overtime Premium and After-Warranty Service:** During the warranty period, Buyer may request warranty service during non-normal working hours; provided that Buyer shall pay the overtime premium portion of Varian's then standard service rate for the non-normal hours worked (non-normal hourly rate minus normal hourly rate). After expiration of the warranty period, Varian will charge Buyer at then current prices for parts, labor, transportation and any maintenance services, or, at additional charge, will offer a paid service plan and extended warranty coverage for Millennium Technology Components provided Varian is the primary service provider for the Products to which extended warranty coverage applies.

## 11. DAMAGES AND LIABILITY

VARIAN'S TOTAL LIABILITY IN DAMAGES OR OTHERWISE SHALL NOT EXCEED THE PAYMENT, IF ANY, RECEIVED BY VARIAN FOR THE UNIT OF PRODUCT OR SERVICE FURNISHED OR TO BE FURNISHED, AS THE CASE MAY BE, RESULTING IN THE LOSS OR DAMAGE CLAIMED. IN NO EVENT SHALL VARIAN BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL LOSS OR DAMAGES OF ANY KIND, SUCH AS BUT NOT LIMITED TO LOST BUSINESS REVENUE, LOST PROFITS OR COSTS OF DOWNTIME RESULTING FROM VARIAN'S PRODUCTS OR SERVICES, HOWEVER CAUSED, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY. Liability to third parties for bodily injury, including death, resulting from Varian's performance or products shall not be affected by the liability limitations stated above in this Article 11 and shall be determined in accordance with Article 12 Indemnity below.

## 12. Indemnity

With respect to bodily injury liability to third parties, Varian shall be responsible in such proportion as reflects its relative fault as determined in accordance with applicable

law, and Buyer shall be responsible for all other liability for damages arising from or in any way related to the use or operation of any Product by Buyer, its employees, agents or other non-Varian personnel. Notwithstanding the foregoing, and notwithstanding any fault or neglect attributable to Varian, Varian shall have no responsibility whatsoever for, and Buyer shall indemnify, defend and hold Varian harmless from, any and all damage or injury which arises from or relates to (1) any use, operation or service of any Product by other than Varian personnel prior to completion of applicable acceptance tests by Varian and the radiation survey by Buyer, or (2) any use, operation or service of any Product contrary to any written warning or instruction given by Varian with respect to such Product, including but not limited to unauthorized use and/or modification of any equipment, components, software or accessories by any user, or their use on or with any explosive or incendiary materials, or (3) the design, manufacture, purchase, sale, installation, replacement, service, use, misuse and/or reuse of any product specifically requested to be supplied by Varian or offered for sale as a Varian Product. This Article 12 shall survive the delivery and acceptance of the Products.

## 13. Disputes, Arbitration and Applicable Law

Any dispute, controversy or claim of any kind against Varian arising out of or relating to this contract, or its breach, termination or invalidity, or the Products, including the jurisdiction of the arbitration panel and claims in tort, shall be settled by final and binding arbitration. For sales to U.S. customers, arbitration shall be in Palo Alto, California under the rules and procedures of the American Arbitration Association ("AAA"). If the sale is international or between entities outside the U.S., arbitration shall be in the place of Varian's corporate domicile under the UNCITRAL Arbitration Rules in effect on the date of this contract, and the appointing authority shall be the AAA. The governing law of the substance of this contract shall be the commercial law of the state or country of Varian's corporate domicile or the place from which the Products are shipped, and the United Nations Convention on contracts for the International Sale of Goods shall not apply. The procedural law shall be the law of the place where arbitration is conducted. Arbitral proceedings shall be conducted in the English language. The arbitration tribunal shall not award punitive damages. The arbitration award shall be final and binding, shall be the sole and exclusive remedy regarding any and all claims and counterclaims presented, and may not be reviewed by or appealed to any court except for enforcement. Nothing in this contract shall prohibit Varian from seeking to prevent any unauthorized copying, disclosure, use, retention or distribution of its intellectual or other property by injunctive relief or otherwise in a court of law. Varian shall have the exclusive right to bring legal action for failure to pay for products or services furnished in the courts of Varian's corporate domicile or any other place.

## 14. Limitation of Claims

No claims, regardless of form, arising out of, or in any way connected with this contract, the Products or services furnished by Varian, may be brought by Buyer more than one (1) year after the cause of action has accrued or performance under this contract has been completed or terminated, whichever is earlier.

## 15. Computer Software

Computer software (including, without limitation, source code, object code, application software, server and client software, operating system software, and software implemented as firmware) provided by Varian with the Products remains the property of Varian or Varian's licensors. Varian grants Buyer a personal, nonexclusive right to use such software only in machine readable form and only in combination with Products with which such software is provided. Buyer shall not copy, reproduce, download or reverse engineer any computer software provided by Varian, and Buyer shall not provide, disclose or distribute any such software, or portion thereof, to any third party. If Buyer discontinues use of the software or Products with which software is provided, or transfers the same to any third party, this license shall terminate and Buyer shall delete all copies of computer software in Buyer's possession capable of being deleted and shall return all removable software media and materials to Varian, and Buyer shall notify the U.S. Food and Drug Administration of any transfer.

## 16. Architecture

Varian will have no approval or other responsibility for any matter affecting or related to the adequacy of Buyer's operating permit, architectural design, the radiation protection walls and barriers, patient viewing devices, or compliance with all facility personnel safety devices and related inspections. Architectural design, radiation protection walls, barriers and other safety devices and final

shielding must be approved by Buyer's radiation protection expert and be satisfactory to the competent health and radiation-protection authorities and shall be Buyer's sole responsibility. Buyer shall be responsible for utility service design and location and other details of its facility.

## 17. Installation

This paragraph applies only if Buyer is purchasing linear accelerator or simulator products. Except as otherwise agreed, Buyer will provide labor and rigging services to unload the subbase frame and the Product from the transport vehicle and move them to their final positions. Buyer will be responsible for the setting and grouting of the subbase frame and the connection of the Product to the utilities, and Varian will notify Buyer approximately ninety (90) days prior to scheduled Product shipment to allow Buyer to provide for and coordinate rigging services, unloading and final positioning, all of which shall be Buyer's responsibility. A Varian representative will monitor the movement, final positioning and connection of the Product. Buyer will be responsible for having the building, utilities, lighting, ventilation, air conditioning, mounting facilities, all necessary radiation shielding, and access to the room completed on the estimated delivery date and ready for installation of the Product. In cases where Varian supervises such work, Varian shall act solely as Buyer's agent and shall have no responsibility or liability of any kind therefor. If delays in completion delay installation, Buyer will reimburse Varian at Varian's standard service rates for any extra time and/or travel by Varian made necessary by the delay. Varian will assemble and test the Product, but Varian shall have no obligation to operate Products to complete installation or acceptance tests unless Buyer has provided adequate radiation shielding protection and other site preparations for the safety and protection of Buyer's and Varian's personnel and Products. Upon completion of installation, Varian's representatives will demonstrate proper machine operation by performing Varian's standard test procedures.

Buyer shall provide a representative who shall be present at all times during installation and be capable of assisting where necessary. When no representative is present or assistance from Buyer is not available when required by Varian, Varian may discontinue installation and shall charge Buyer for any additional costs incurred including Varian's standard service rates. Should completion of installation be delayed due to union action or influence, Buyer shall, as soon as possible, make such arrangements as may be necessary for Buyer to carry out the work at Buyer's expense under the engineering supervision of Varian. Except as otherwise expressly provided by Varian in published specifications or specific Varian offers, Buyer shall be responsible for obtaining all permits and for meeting all requirements relating to applicable state and local codes, registrations, regulations and ordinances affecting Products, including their uses and services.

## 18. Calibration and Radiation Surveys

For linear accelerator and simulator Products, Buyer shall be responsible for all Product calibration. The dose rate and integrated dose measured by the accelerator transmission ionization chamber and dosimetry electronics must be calibrated by a qualified radiological physicist prior to use of the Product for patient treatment. Buyer shall be responsible for testing and calibrating the Product on a regular basis. Buyer also shall be responsible for any radiation surveys required by applicable law or regulation or necessary to establish that radiation does not exceed safe levels.

For simulator Products, Varian's obligation to calibrate shall be limited to that required by local law. In the United States calibration shall be limited to those certified components that are required under 21 CFR 1020.30(d) (U.S. Code of Federal Regulations) to be calibrated by the installer where Varian is the installer. Buyer shall be responsible for all other calibrations of simulator Products.

## 19. Confidentiality

All drawings, designs, specifications, manuals and programs furnished by Varian to the Buyer shall remain the property of Varian. All such information furnished in confidence to Buyer, except as may be found in the public domain, shall be held in confidence by Buyer and shall not be disclosed by Buyer to any third parties. Copyright in all materials made available by Varian shall remain in Varian at all times.

## 20. Entire Agreement

These terms and conditions, Varian Specifications and related documents expressly agreed to in writing by the parties contain the complete and exclusive statement of the terms of agreement of the parties with respect to this subject matter, and supersede all prior understandings, representations and warranties, written and oral. If a court or arbitrator holds any part of these terms and conditions to be illegal, unenforceable or invalid in whole or in part for any reason, the validity or enforceability of the remaining provisions, or portions of them, will not be affected.

Revised 8/02

## BUSINESS ASSOCIATE EXHIBIT

### PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION

[Hospital/Clinic] ("Customer") and Varian Medical Systems ("Varian") acknowledge that Customer is a "health care provider" and that Varian may be a "business associate" of Customer as those terms are defined in the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 §§ 261-62, 264, 42 U.S.C. §§ 1320d *et seq.*, and its implementing regulations codified at 45 C.F.R. 160.101 *et seq.* (collectively "HIPAA"). Accordingly, Customer and Varian agree to comply with all provisions of HIPAA applicable to the performance of the Service/Warranty/Sales Agreement between Varian and Customer (the "Agreement").

#### 1. DEFINITIONS.

1.1 Protected Health Information; Other Terms Used. For purposes of the Agreement and this Exhibit, "Protected Health Information" shall have the meaning ascribed to it in 45 C.F.R. § 164.501. Varian acknowledges that, in the course of performing the Agreement, it may from time to time receive Protected Health Information from Customer in order to perform service and support functions, including but not limited to installation, training, maintenance and service for Varian products and service for products used in conjunction with Varian products. Hereinafter, the Protected Health Information received by Varian from Customer and any additional Protected Health Information that may be created by Varian based on the information received from Customer is collectively referred to as the "Confidential Patient Information." Neither "Protected Health Information" nor "Confidential Patient Information" shall be interpreted to include information that, within the meaning of HIPAA, does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual. Other terms used but not otherwise defined in this Exhibit shall, as applicable, have the same meaning as terms in 45 C.F.R. § 160.103 and 164.501.

#### 2. VARIAN OBLIGATIONS

2.1 Use and Disclosure of Confidential Patient Information. Varian will: (a) use and disclose all Confidential Patient Information only as permitted or required to perform its obligations under the Agreement, including this Exhibit, or as required by law; and (b) will not use or further disclose any Confidential Patient Information in a manner that would violate HIPAA, if such use or further disclosure was made by Customer.

20069994.1

2.2 Permitted Uses of Confidential Patient Information. Varian may use Confidential Patient Information only as follows: (a) for the proper management and administration of Varian; (b) to provide the Services described in or required by the Agreement and any additional or other services described in any addendum or modification to the Agreement agreed to by Varian and Customer; (c) to carry out legal responsibilities of Varian; or (d) to report violations of law to appropriate Federal and State authorities consistent with 45 C.F.R. § 164.502(j)(1).

2.3 Permitted Disclosures of Confidential Patient Information. Varian may disclose Confidential Patient Information only as follows: (a) to authorized persons designated by Customer in writing; (b) to the patient that is the subject of the information pursuant to procedures determined by Customer and in accordance with applicable law; (c) to a physician or other health care professional authorized by Customer to access the information; (d) to other persons as expressly requested in writing by Customer and in accordance with applicable law; (e) to persons under Varian's direct control as necessary to satisfy Varian's obligations under the Agreement; (f) to other agents and subcontractors of Varian only as necessary to satisfy Varian's obligations under this Agreement and only, if and to the extent, those agents and subcontractors agree to the same restrictions and conditions on the use and disclosure of Confidential Patient Information that apply to Varian through this Exhibit; (g) as required by law; and (h) if Varian obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to Varian and the person notifies Varian of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4 Disclosures Required by Law. If a disclosure of Confidential Patient Information is required by law, including pursuant to a request from a state or federal government agency or pursuant to a subpoena or a court order in a judicial proceeding, Varian will comply with all applicable HIPAA regulations and state laws, including but not limited to 45 C.F.R. § 164.512.

2.5 Safeguards; Mitigation. Varian shall use appropriate safeguards to prevent the use or disclosure of Confidential Patient Information other than as permitted or required by the Agreement and this Exhibit or as permitted or required by law. Varian agrees to mitigate, to the extent practicable, any harmful effect that is known to Varian of use or disclosure of Confidential Patient Information by Varian in violation of the requirements of this Exhibit.

2.6 Reports of Unauthorized Use or Disclosure. Varian shall report in writing to Customer any use or disclosure of Confidential Patient Information not provided for by this Exhibit of which it becomes aware.

2.7 Availability of Confidential Patient Information. Varian will make all Confidential Patient Information available to Customer and otherwise cooperate with Customer to the extent necessary for Customer to comply with its obligations under 45 C.F.R. §§ 164.524-528, including providing patients access to medical records, an opportunity to amend incorrect information and an accounting of disclosures of Protected Health Information. Varian further agrees to make its internal practices, books and records, including policies and procedures and Confidential Information, relating to the use and disclosure of Confidential Patient Information available to the Secretary of HHS in a time and manner designated by the Secretary of HHS, if necessary, for the purpose of determining Customer's compliance with HIPAA.

### 3. CUSTOMER OBLIGATIONS

3.1 Requests. Subject to uses and disclosures permitted under this Exhibit, Customer shall not request Varian to use or disclose Confidential Health Information in any manner that would not be permissible under HIPAA if done by Customer.

3.2 Required Notices.

- A. Customer shall notify Varian of, and specifically identify, any limitations in its notice of privacy practices in accordance with 45 C.F.R. §164.520, to the extent that such limitations impose restrictions beyond those generally applicable under HIPAA and may affect Varian's use or disclosure of Confidential Patient Information.
- B. Customer shall notify Varian of any changes in, or revocation of, permission by an Individual to use or disclose Confidential Health Information, to the extent that such changes may affect Varian's use or disclosure of Confidential Health Information.
- C. Customer shall notify Varian of any restriction to the use or disclosure of Confidential Health Information that Customer has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Varian's use or disclosure of Confidential Health Information.

#### 4. GENERAL PROVISIONS.

4.1 No Third Party Beneficiary. The provisions and covenants set forth in this Exhibit are expressly entered into only by and between Varian and Customer and are intended only for their benefit. Neither Varian nor Customer intends to create or establish any third party beneficiary status or right (or the equivalent thereof) in any other third party, and no such third party shall have any right to enforce or enjoy any benefit created or established by the provisions and covenants in this Exhibit.

4.2 Term; Termination of Agreement. This Exhibit shall be effective on April 14, 2003 or any later adopted compliance date for the HIPAA privacy regulations or on the effective date of the Agreement if executed after April 14, 2003, whichever date is later and shall terminate when all Confidential Health Information provided by Customer to Varian, or created or received by Varian on behalf of Customer, is destroyed or returned to Customer, or if it is infeasible to return or destroy Confidential Health Information, protections are extended to such information in accordance with Section 4.3 hereof. Customer may terminate the Agreement if Varian fails to cure a default or breach of a material term of this Exhibit within thirty (30) days after it receives written notice of such default or breach from Customer. If neither termination nor cure are feasible, Customer shall report the violation, if any, to the Secretary of HHS.

4.3 Effect of Termination. Except as provided herein, upon termination of the Agreement or of this Exhibit for any reason (and if Varian and Customer do not enter into any comparable successor agreement or Exhibit), Varian shall return or destroy all Confidential Information, including Confidential Information that is in the possession of subcontractors or agents of Varian, and Varian shall retain no copies of the Confidential Information. In the event that returning or destroying the Confidential Information is infeasible, Varian shall provide to Customer notification of the conditions that make return or destruction infeasible and shall extend the protections of this Exhibit to such Confidential Information and limit further uses and disclosures of such Confidential Information to those purposes that make the return or destruction infeasible, for so long as Varian maintains such Confidential Information.

4.4 Regulatory References. A reference in this Exhibit to a section in the Code of Federal Regulations means the section as in effect or as amended, and for which compliance is required.

4.5 Amendment. The Parties agree to take such action as is necessary to amend this Exhibit from time to time as is necessary for Customer to comply with the requirements of HIPAA.

4.6 Interpretation. Any ambiguity in this Exhibit shall be resolved in favor of a meaning that permits Customer to comply with HIPAA.

The undersigned duly authorized representatives of the parties have executed this Exhibit as of the date written below.

By: \_\_\_\_\_

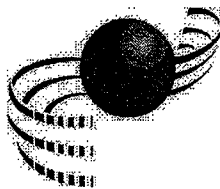
Hospital/Clinic: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_



COMPUTERIZED MEDICAL SYSTEMS INC. <sup>TM</sup>

"It's all about outcomes."<sup>TM</sup>

Mr. Charles Gignac  
Hospital of Saint Raphael  
Radiation Therapy Department  
1450 Chapel Street  
New Haven , CT 06511  
United States

May 4, 2004

Dear Mr. Gignac :

We have prepared this Quotation package for your review and consideration.

- The Pricing & Options Summary sections will provide an estimated overall system cost along with brief description of the hardware and software included in the quotation.
- The Terms and Conditions section will display the specific business methods Computerized Medical Systems, Inc. uses for operations.
- The System Descriptions section will describe, in detail, the exact configuration we have prepared for your facility along with the software features associated with the systems in this quotation.

I will gladly provide any clarification you require. I may be reached at (617) 852-4808.

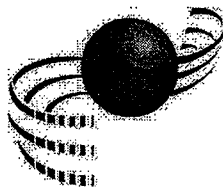
Best Regards and thank you again for the opportunity.

Dan Ciarametaro  
Regional Sales Manager - Northeast  
Computerized Medical Systems, Inc.  
Enclosures

1145 Corporate Lake Drive, St. Louis, MO 63132 • Suite 100  
Phone: 314.993.0003 • Fax: 314.993.0075 • Toll Free: 800.878.4267  
Internet: [www.cms-stl.com](http://www.cms-stl.com)  
*An ISO 9001 certified company*

Doc. 9991-990-10I

Form 2030  
Revised 8/02



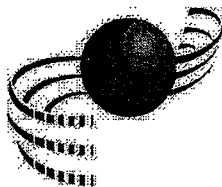
## Pricing Summary

Mr. Charles Gignac  
Hospital of Saint Raphael  
Radiation Therapy Department  
1450 Chapel Street  
New Haven, CT 06511  
United States  
(203) 789-3833

May 4, 2004

Item#	Description	Qty.
1.	<p>Same Site Additional XiO-DUAL 3D RTP System consisting of:</p> <ul style="list-style-type: none"> <li>• XiO Dual - LINUX Workstation consisting of the following features: Please note that CMS reserves the right to upgrade the computer hardware to the current model available at time of shipping. <ul style="list-style-type: none"> <li>HP XW8000 desk top base system with 3.5-inch floppy drive, (1)</li> <li>10/100Base-T Ethernet connector and keyboard.</li> <li>Xeon Processor - 3.2 GHz 1MB cache (Primary)</li> <li>Xeon Processor - 3.2 GHz 1MB cache (Secondary)</li> <li>2 GB ECC DDR-266 module (4x512)</li> <li>73 GB SCSI Ultra 320 Int. (15k) disk drive</li> <li>DVD (DVD+R/+RW/CD-RW) Combo</li> <li>NVIDIA Quadro 4 980 XGL Video Controller</li> </ul> </li> <li>• Monitor - LCD 20" 1600x1200 Color</li> <li>• 2 GB ECC DDR-266 module (2x1GB)</li> <li>• Modem-MultiModem with USB interface - 56K</li> <li>• External 80/160 GB VXA-2 Tape Drive</li> <li>• XiO Application Software 2-D/3D External Beam Application Software consisting of: <ul style="list-style-type: none"> <li>Algorithms - Clarkson, 3-D Pencil Beam, FFT Convolution &amp; Superposition</li> <li>Irregular Field</li> <li>3D Visualization Including Solid, Wire &amp; Transparent Multi Planar Views</li> <li>DRR</li> <li>Dose Volume Histograms (DVH)</li> <li>TCP and NTCP Calculation</li> <li>Patient Entry and Outlining Utilities Including Manual and Automatic Contouring</li> <li>Fixed, Motorized, Dynamic and Virtual Wedges</li> </ul> </li> <li>• MP-Accelerator, multi-threading dose calculation software. Specifically designed to maximize multi-processor hardware performance (parallel processing).</li> <li>• One year Hardware Warranty. Software Warranty concurrent with Main workstation.</li> </ul>	1

Quote Number	103972
PO #	
Representative	DC/SC
Expiration Date	7/3/2004
CCR#	3523



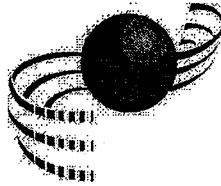
## Pricing Summary

Mr. Charles Gignac  
Hospital of Saint Raphael  
Radiation Therapy Department  
1450 Chapel Street  
New Haven, CT 06511  
United States  
(203) 789-3833

May 4, 2004

Item#	Description	Qty.
2.	Single additional copy of 3D IMRT software including the following required options: <ul style="list-style-type: none"> <li>• Fast Inverse Planning Optimization algorithm Based on Tumor and Organ Dose Volume Constraints</li> <li>• Segmentation for Elekta, Siemens and Varian MLC's</li> <li>• Generation of Fluence Matrices</li> <li>• Calculation of Compensator Profiles</li> <li>• Single Copy of MLC Planning Software</li> <li>• DICOM RT PLAN Export</li> </ul> Export of Beam Data and MLC data to Varian VARIs, IMPAC Access, Siemens LANTIS, Elekta RT Desktop and other DICOM RT PLAN receiving systems. (CMS maintains a list of validated interfaces for DICOM RT Structure Set and RT Plan. Use of this interface in configurations not on this list will require validation testing at the customer's site) Note: This is the export from XiO only; an import application on the receiving side is required and may need to be purchased from the receiving vendor.	1
3.	Advanced Autosegmentation Software	1
4.	Single geographical site license. Standalone Time/MU software only. Independent software module based on Netscape Internet browser for PC, Unix or Linux Workstations.	1
5.	Fusion software for registration of one MR, PET, NM, or CT data set to another. Using automatic mutual information or manual registration techniques with advanced visualization of multi-modality data.	1
6.	DICOM 3.0 CT Network Interface Import of CT images in DICOM 3.0 format through an existing network. The CT scanner has to be equipped with the necessary DICOM 3.0 export options and the network cabling needs to be in place.	1
7.	DICOM 3.0 MRI Interface - Import of MRI images in DICOM 3.0 format through an existing network. The MR scanner has to be equipped with the necessary DICOM 3.0 export options and the network cabling needs to be in place.	1

Quote Number	103972
PO #	
Representative	DC/SC
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CCR#	3523



## Pricing Summary

Mr. Charles Gignac  
Hospital of Saint Raphael  
Radiation Therapy Department  
1450 Chapel Street  
New Haven , CT 06511  
United States  
(203) 789-3833

May 4, 2004

<u>Item#</u>	<u>Description</u>	<u>Qty.</u>
8.	DICOM 3.0 PET Interface - Import of PET images in DICOM 3.0 format through an existing network. The PET scanner has to be equipped with the necessary DICOM 3.0 export options and the network cabling needs to be in place.	1
9.	CABLE - SCSI-3 TO SCSI-3, 3 FT (MD-68 tape drive)	1
10.	On-Site Installation, Service or Systems Administration.	1

<b>List Price</b>	<b>\$244,121.00</b>
<b>Less Premier IDN Discount</b>	<b>\$139,823.00</b>
<b>Total Price</b>	<b>\$104,298.00</b>

Pricing is in U.S. Dollars.

This quotation is valid for sixty (60) days, noted in the lower right hand corner of this document (see expiration date).  
Configuration and availability are subject to change without notice. Shipping charges to be billed at actual.

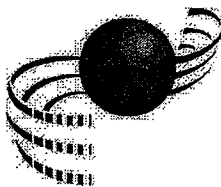
Doc. 9991-990-10I

Page 4

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Form 2030  
Revised 8/02

Quote Number	103972
PO #	
Representative	DC/SC
Expiration Date	7/3/2004
CCR#	3523



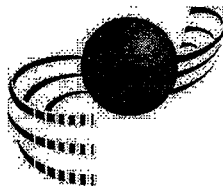
## Optional Features

Mr. Charles Gignac  
Hospital of Saint Raphael  
Radiation Therapy Department  
1450 Chapel Street  
New Haven , CT 06511  
United States  
(203) 789-3833

May 4, 2004

<u>Item#</u>	<u>Description</u>	<u>Qty.</u>	<u>List Price</u>	<u>PremierIDN Price</u>
11.	Accugrid Digital Tablet - 50 x 60cm Active area (Backlit) with serial cable	1	\$ 2,800	\$ 2,380
12.	HP color LaserJet 5500n Series Printer with hp ImageREt 2400-dpi technology, 500 sheet paper tray, printer stand option and network cable.	1	\$ 6,550	\$ 5,568
13.	A/B box and cables required to share Tablet between two HP workstations.	1	\$ 180	\$ 153

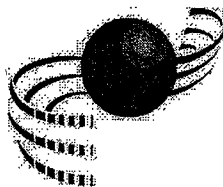
Quote Number	103972
PO #	
Representative	DC/SC
Expiration Date	7/3/2004
CCR#	3523



## XiO/Focal/interplant/AccuSeed Terms & Conditions

- 1 Pricing is U.S. Dollars.
- 2 Any customs, taxes, duties or other similar charges are the responsibility of the customer.
- 3 Premier Payment Terms:  
For Product(s) purchased requiring installation by Seller, eighty percent (80%) of the purchase price must be paid within forty-five (45) days following delivery of applicable Product(s) or receipt of invoice, whichever date is later and the balance of the purchase price must be paid within thirty (30) days of "acceptance" of such Product(s).  
For Product(s) not requiring installation by Seller, one hundred percent (100%) of the purchase price must be paid within forty-five (45) days.
- 4 Shipping is F.O.B. Destination. All freight and insurance charges are the responsibility of CMS.
- 5 Installation is included in the purchase price (if applicable). Installation occurs 30-90 days from the receipt of a hard copy purchase order.
- 6 A written copy or facsimile of a purchase order along with a down payment must be received by the Accounting Department prior to processing the order. Manufacture Make and Model number must be provided prior to Final Quotation of any interface.
- 7 The warranty period for purchases begins 30 days after installation or at the time of first beneficial use by the customer, whichever should come first. The warranty period for all system hardware purchases is one year. Interplant and AccuSeed warranties commence five business days from shipment.
- 8 Penalties for late payment are 1 ½ % per month on any outstanding balance. This is equivalent to an annual percentage rate of 18%.
- 9 A written copy or facsimile of a purchase order must be received by CMS Service/Support prior to CMS dispatching any resources to resolve a problem for customers not under warranty or a current Service/Support Contract.
- 10 XiO Add-on workstation pricing will be valid for up to one year from the date of installation. An additional fee per add-on installation will be charged to cover the extra cost involved for purchases made after the initial installation.
- 11 Accuracy of XiO dose calculation is subject to proper Data Collection and Beam Modeling. This agreement does not contract or obligate CMS to evaluate any customer data entries during commissioning or operation of the XiO/Focal applications software, except as provided for by a separate contractual agreement. Should data entry errors be discovered during the course of a routine problem evaluation by CMS support personnel under this agreement, such error(s) will be promptly communicated to customer by any reasonable means as determined by CMS. CMS shall not be responsible for any non-disclosed or non-discovered data entry error.  
Final validation and acceptance of all measured and/or modeled beam data is the customers' responsibility.
- 12 All FOCUS customers will be upgraded to the XiO Software Application when it is available at no additional charge, as long as they are covered under their original 1-year Software Maintenance Agreement or have an active Software Assurance Contract. Upgraded functionality will include the standard XiO RTP Software Applications and all options/interfaces previously purchased with the FOCUS System.
- 13 Accuracy of interplant® dose calculations is subject to use of proper brachytherapy seed data. Validated seed data are supplied with the interplant® system software. Customers can create additional seed data of their own for which they have the responsibility of validating. Dose calculations by interplant® are based upon the AAPM TG-43 algorithm for computation of dosimetry from seeds.

Quote Number	103972
PO #	
Representative	DC/SC
Expiration Date	7/3/2004
CCR#	3523



## **XiO/Focal/interplant/AccuSeed Warranty Terms**

### **Installation :**

All costs involved with the installation of the main XiO system are included. Installation includes the connection of the XiO system and all peripheral devices directly associated with the XiO system. Installation also includes establishment of the network connection between XiO and a single network device. Connection to additional network devices is available at additional cost. Network devices may be CT or MRI scanners, or the main facility network. Installation of cables between the external network device and the XiO system is a customers responsibility.

### **Hardware / Software Warranty:**

A one year Full Service and Support Warranty is included. The Hardware / Software warranty period for XiO commences 30 days following installation of the hardware, or upon first clinical use, whichever comes first. The warranty commences five days from shipment for interplant and AccuSeed systems. The Hardware warranty covers all hardware components purchased from Computerized Medical Systems specifically for use with the XiO/Focal/interplant/AccuSeed systems. Components purchased at the customers request as pass through items may not be included in the XiO/Focal/interplant/AccuSeed warranty.

The hardware warranty covers repairs to all hardware components which fail due to defects in manufacturing or workmanship. Components damaged through accident or misuse may not be covered under this warranty. A sixteen ( 16 ) business hour response is targeted for all hardware repairs. Components may be repaired or replaced at the discretion of CMS.

The Software warranty provides for unlimited access to the CMS Customer Support Help Desk via the CMS Customer Support toll free number. This feature also allows for access to the CMS On-Line Answer Desk via the InterNet. Software updates, not involving marketable features will be provided at no charge during the warranty period.

### **AccuSeed Repairs:**

All hardware repairs for AccuSeed components are depot repair only, Champaign, Illinois.

### **XiO Training:**

Attendance for one representative of the purchasing facility to the in house XiO Applications Training Course is included with purchase of the Main XiO system. This consists of a comprehensive, five day didactic and laboratory course in the use of the XiO RTP System. All travel and living expenses are included. This paragraph pertains to all quotes that list the training class as a line item. Training for upgrades and peripherals are not included. On-site training is available at additional cost.

### **interplant Training:**

Attendance for a two day on site interPlant Training Course is included with purchase of the first interPlant system.

### **AccuSeed Training:**

Attendance for a one day on site AccuSeed Training Course is included with purchase of the first AccuSeed system

### **Documentation:**

One copy of all reference manuals and tutorials associated with the XiO/Focal/interplant/AccuSeed Hardware and Applications Software are provided. Operators manuals on individual hardware components, as provided by the original manufacturer, are included.

### **Supplemental Services:**

During the warranty period, customers will have access to billing and reimbursement management assistance provided by The Pinnacle Group. Customers may contact The Pinnacle Group at 610-687-5640 or through InterNet access ([cms@thepinnaclehealthgroup.com](mailto:cms@thepinnaclehealthgroup.com)), to receive answers about issues surrounding reimbursement for dosimetry and physics services. This includes fee scheduling information, and information regarding the various CPT and IDN codes used by various insurance provides.

### **Physics Services:**

Beam data collection and data fitting on the XiO RTP System is available at additional cost.

Quote Number	103972
PO #	
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Expiration Date	7/3/2004
CCR#	3523